

April 5, 1996

OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON
700 Central Building
810 Third Avenue
Seattle, Washington 98104

REPORT AND RECOMMENDATION TO THE KING COUNTY COUNCIL.

SUBJECT: Department of Development and Environmental Services File No. L94P0010
Proposed Ordinance No. 96-209

Proposed Plat of LONGSPUR

Located on north margin of South Star Lake Road, approximately between 43rd Avenue South and 46th Avenue South

SUMMARY OF RECOMMENDATIONS:

Division's Preliminary: Approve, subject to conditions
Division's Final: Approve, subject to conditions (modified)
Examiner: Approve, subject to conditions (modified)

PRELIMINARY REPORT:

The Land Use Services Division's Preliminary Report on Item No. L94P0010 was received by the Examiner on March 12, 1996.

PUBLIC HEARING:

After reviewing the Land Use Services Division's Report and examining available information on file with the application, the Examiner conducted a public hearing on the subject as follows:

The hearing on Item No. L94P0010 was opened by the Examiner at 9:20 a.m., March 26, 1996, in Hearing Room No. 2, Department of Development and Environmental Services, 3600 - 136th Place S.E., Suite A, Bellevue, Washington, and adjourned at 11:10 a.m. In order to receive additional information in writing from the Department, the hearing was administratively continued to April 3, 1996, at which time the hearing record closed. Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the Office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & RECOMMENDATION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Owner:	Dale & Bernice Porter 11611 Military Road South Seattle, WA 98168 (206) 242-3675
Applicant:	Burnstead Construction Co. 1215 - 120th Avenue NE, Suite 201 Bellevue, WA 98005 (206) 454-1900
STR:	24-22-04
Location:	On north margin of South Star Lake Road, approximately between 43rd Avenue South and 46th Avenue South
Zoning:	S-R
Acreage:	8.7 (approximately)
Number of Lots:	27

Typical Lot Size: Ranges from 5,523 square feet to 9,732 square feet
Proposed Use: Single-family detached
Sewage Disposal: Lakehaven Water & Sewer
Water Supply: Highline Water District
Fire District: King County Fire District #39
School District: Federal Way School District
Date of Application: September 21, 1994

2. Sections C through M, pages 2 - 7, of the King County Land Use Services Division Preliminary Report to the King County Hearing Examiner for the March 26, 1996 public hearing are found to be correct and are incorporated herein by this reference. A copy of the said Preliminary Report will be attached to the copies of this report submitted to the County Council.
3. There is a dispute concerning the location of the boundary between Lot 2 of King County Short Plat 1179023-8103130782 and the east boundary of the subject property adjacent to proposed Lots 20-22. It appears likely that this dispute will be resolved by conveyance of an access tract to the owners of the adjacent property to the east. A survey of the subject property and acceptable proof of title, including documentation of a resolution of the disputed boundary, can be required as a condition of final plat approval.
4. The primary receptor of surface water run-off from the subject property is a Class 2 wetland and a Class 3 intermittent stream which flows in a southeasterly direction through the north half of the site. This stream enters Lot 9 of Star Lake Hills and exits that lot through a culvert under 46th Avenue South. The approved drainage variance allows diversion of surface water from the small southerly basin on the property into the northerly basin, where it will be added to the wetland and stream. Biofiltration and detention will be required within Tracts C and A, respectively.

The culvert exiting Lot 9 of Star Lake Hills presently handles run-off adequately. However, the culvert is nearing capacity, and it is essential that its capacity not be exceeded in order to avoid damage to the improvements on Lot 9. Design of the stormwater detention facility can be required to assure that post-development run-off in the northerly basin of the site does not exceed the volume of pre-development run-off, notwithstanding the diversion of run-off from the southerly basin to the northerly basin, in accordance with the current Surface Water Design Manual.
5. The evidence indicates that reasonable pedestrian facilities are available for children who will walk from the proposed development to Valhalla Elementary, Totem Junior High, and Thomas Jefferson Senior High School. Although the pedestrian facilities available do not meet current King County standards, the developed nature of the area makes it inappropriate to require this proposed development to furnish off-site improvements to bring existing shoulders and walkways to current standards.

CONCLUSIONS:

1. If approved subject to the conditions recommended below, the proposed subdivision will comply with the goals and objectives of the King County Comprehensive Plan, Federal Way Community Plan, Subdivision and Zoning Codes, and other official land use controls and policies of King County.
2. If approved subject to the conditions recommended below, this proposed subdivision will make appropriate provision for the public health, safety and general welfare and for open spaces, for drainage ways, streets, other public ways, transit stops, potable water supply, sanitary wastes, parks and recreations, playgrounds, schools and school grounds, and safe walking conditions for students who only walk to school; and it will serve the public use and interest.
3. The conditions for final plat approval recommended below are in the public interest and are reasonable requirements to mitigate the impacts of this development upon the environment.
4. The dedications of land or easements within and adjacent to the proposed plat, as recommended by the conditions for final plat approval or as shown on the proposed preliminary plat submitted by the applicant, are reasonably necessary as a direct result of the development of this proposed plat.
5. Prior to recording the final plat, reasonable assurance and documentation must be provided that the applicant has clear title to the property proposed for subdivision. Provision should be made in the final plat for conveyance of an access tract to the adjacent property owner if an agreement therefor is concluded as part of the resolution of the current boundary dispute.
6. Stormwater retention and detention facilities should be designed and constructed to assure that surface water run-off from the north basin of the subject property in its pre-development condition is not exceeded following development, in accordance with the requirements of the current Surface Water Drainage Manual, taking into consideration that additional detention will be required to account for the diversion approved in File No. L95V0120.

RECOMMENDATION:

APPROVE the proposed plat of LONGSPUR, as revised and received February 20, 1996, subject to the following conditions of final plat approval:

1. Compliance with all platting provisions of Title 19 of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication which includes the language set forth in King County Council Motion No. 5952.
3. The area and dimensions of all lots shall meet the minimum requirements of the S-R zone classification or shall be as shown on the face of the approved preliminary plat, whichever is larger. Minor revisions to the plat which do not result in substantial changes, or which are consistent with other conditions of final approval, may be approved at the discretion of the Land Use Services Division.
4. The applicant must obtain final approval from the King County Health Department.
5. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187.
6. The applicant must obtain the approval of the King County Fire Protection Engineer and demonstrate compliance with the fire hydrant, water main, and fire flow standards of Chapter 17.08 of the King County Code.
7. Final plat approval shall require full compliance with drainage provisions set forth in King County Code 9.04, and current storm drainage requirements and guidelines as established by the Surface Water Management Division. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. The following conditions represent portions of the Code and apply to all plats.
 - a. Drainage plans and analysis shall comply with the 1990 King County Surface Water Design Manual and applicable updates. LUSD approval of the drainage and roadway plans is required prior to any construction.
 - b. Current standard plan notes and ESC notes, as established by LUSD Engineering Review, shall be shown on the engineering plans.
 - c. The following note shall be shown on the final recorded plat:

"All building downspouts, footing drains and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # _____ on file with LUSD and/or the Department of Public Works. This plan shall be submitted with the application for any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with the plans on file."
8. The proposed drainage facilities shall be designed to comply with the conditions of approved SWM Variance L95V0120. This variance allows the diversion of stormwater from the depression in the southwest corner of the site to the proposed detention facility in Tract A. The post-development flow from the detention facility in Tract A shall not exceed the required standard as measured by pre-development flow from the north basin (so that the diversion authorized by the SWM variance does not have the effect of increasing the rate of discharge to the property to the east).
9. The Tract A stormwater facility access road shall be designed with structural fill under supervision by a geotechnical engineer. The underlying soils shall be evaluated and considered in the access road design.
10. The 100-year floodplain for the wetlands in Tracts B and C shall be delineated on the final plat and engineering plans, per Special Requirement 9 of the King County Surface Water Design Manual.
11. The following conditions specify the required road improvements for this subdivision (per the 1993 King County Road Standards):
 - a. Road A (44th Place South) shall be constructed to an urban sub-access street standard between Star Lake Road and Road B, and then continue as an urban minor access road to the end of the cul-de-sac.

- b. Road B (South 275th Place) shall be constructed to an urban minor access street standard.
 - c. The South 276th Street frontage (north half) shall be improved to the urban neighborhood collector standard; except that pavement improvements on the south half may be required to address relocation of the road crown.
12. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
 13. The applicant or subsequent owner shall comply with King County Code 27.40, King County Road Mitigation Payment System (MPS), by paying the required MPS fee as determined by King County Public Works, plus an administrative fee. The applicant has an option to either: 1) pay the MPS fee and MPS administrative fee at final plat application, or 2) pay the MPS fee and MPS administrative fee at the time of building permit application. If the first option is chosen, a note shall be placed on the face of the plat stating: "All fees required by King County Code 27.40, King County Road Mitigation Payment System (MPS), have been paid". If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
 14. Lots within this subdivision are subject to KCC 21.61A and Ordinance 12063 which imposed impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance. A note to this effect shall be placed on the final plat.
 15. There shall be no direct vehicular access to or from Star Lake Road (South 276th Street) from those lots which abut this street, except that an access tract to serve Lot 2 of King County Short Plat 1179023-8103130782 may be established at the location of or as a substitute for the existing driveway serving that property. A note reflecting this condition shall appear on the final plat and engineering plans.
 16. Lots 7 and 8 shall have undivided ownership of Tract D and be responsible for its maintenance. A note to this effect shall appear on the final plat. Tract D shall be 26 feet wide and improved with a 22-foot-wide, paved surface and controlled drainage.
 17. The planter islands (if any) within the cul-de-sacs shall be maintained by the abutting lot owners. This shall be stated on the face of the final plat.
 18. The following note shall be shown on the final engineering plan and recorded plat:

**RESTRICTIONS FOR SENSITIVE AREA TRACTS
AND SENSITIVE AREA SETBACK AREAS**

Dedication of a Sensitive Area Tract/Sensitive Area Setback Area conveys to the public a beneficial interest in the land within the tract/setback area. This interest includes the preservation of native vegetation for all purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, visual and aural buffering, and protection of plant and animal habitat. The Sensitive Area Tract/ Sensitive Area Setback Area imposes upon all present and future owners and occupiers of the land subject to the tract/setback area the obligation, enforceable on behalf of the public by King County, to leave undisturbed all trees and other vegetation within the easement. The vegetation within the tract/setback area may not be cut, pruned, covered by fill, removed or damaged without approval in writing from King County Department of Development and Environmental Services or its successor agency.

The common boundary between the tract/setback area and the area of development activity must be marked or otherwise flagged to the satisfaction of King County prior to any clearing, grading, building construction or other development activity on a lot subject to the Sensitive Area Tract/Setback Area. The required marking or flagging shall remain in place until all development proposal activities in the vicinity of the sensitive area are completed.

No building foundations are allowed beyond the required building setback line, unless otherwise provided by law.

19. Tracts B and C shall be labelled as a Sensitive Area Tract (SAT) on the final plat.
20. Determine the top, toe and sides of 40% or greater slopes by field survey. Provide a buffer and building setback from such slopes, consistent with the provisions of KCC 21.54.250.
21. The proposed subdivision shall comply with the Sensitive Areas Ordinance as codified in KCC 21.54 at the time of plat application. Prior to engineering plan approval, the applicant shall provide notice on title as outlined in KCC 21.54.100. Temporary marking, permanent survey marking, and signs as specified in

KCC 21.54.120 shall also be addressed prior to commencing construction activities on the site.

22. The wetlands in Tracts B and C shall have an average buffer width of 50 feet measured from the wetland edge. Buffer averaging may be employed so long as the total amount of buffer area on site is not reduced from that which would be provided without buffer averaging, and better resource protection of the wetlands is achieved, as determined by LUSD.

The buffer area between Tracts B and C (where the R/D access crossing is proposed) may also be reduced, if wetland enhancement is provided along a 20-foot-wide area lying north of the R/D access and a 25-foot-wide area lying south of the R/D access, in a manner approved by LUSD (see Condition No. 26, below).
23. The wetlands and their buffers shall be placed in separate Sensitive Areas Tracts (SATs).
24. A minimum building setback line of 15 feet shall be provided from the edge of the SATs.
25. Prior to permit approval, the owner of the property shall submit proof that a Notice on Title has been filed for record with the Records and Elections Division, to run with the land. The Notice shall be approved by LUSD and shall inform the public record of the presence of a sensitive area or buffer, the application of KCC 21.54 to the property, and that limitations on action in or affecting such areas or buffers may exist.
26. Prior to engineering plan approval, the applicant shall submit a wetland buffer enhancement plan to LUSD, which shows enhancement of the areas adjacent to the proposed R/D access road (see Condition No. 22 for location). The goal of this plan shall be to increase the vegetation density and diversity within the reduced wetland buffer. Bonding may be required by LUSD to assure the installation and survival of required plantings.
27. Prior to commencing construction activities in the vicinity of the wetland and/or its buffer, the applicant shall mark sensitive areas in a highly visible manner, and these areas must remain so marked until all development activities in the vicinity of the sensitive area are completed.
28. Prior to recording of the subject plat, the southern boundary of Tracts B and C shall be identified with permanent wood fencing and sensitive area signs. Fence and sign details shall be shown on the final engineering plans.
29. A homeowners' association or other workable organization shall be established to the satisfaction of LUSD which provides for the ownership and continued maintenance of the SATs.
30. Prior to engineering plan approval, the applicant shall demonstrate to the reasonable satisfaction of LUSD that the boundary dispute relating to the location of the east boundary of the subject property has been resolved. A non-building tract may be established in the easterly portion of proposed Lots 22-23 to provide access to the adjacent property.

RECOMMENDED this 5th day of April, 1996.

James N. O'Connor
King County Hearing Examiner

TRANSMITTED this 5th day of April, 1996, to the following parties and interested persons:

Burnstead Construction Co.
Mark Pivetta
New Construction Services
Jeff Potter
John Ryan
Terra Associates
William Richard Vandermere

King Conservation District
Dale & Bernice Porter
Randy Nicholls
Curt & Renee Rehfeldt
John L. Scott Land Department
The Transpo Group

Mark Carey, DDES/Land Use Services Division
Lee Carte, DDES/Land Use Services Division/SEPA
Peter Dye, DDES/Land Use Services Division
Jon Hansen, DDES/Land Use Services Division
Lanny Henoch, DDES/Land Use Services Division
Tom Koney, Metropolitan King County Council
Mark Mitchell, DDES/Land Use Services Division
Peppe Olyano, Seattle-King Co. Dept. Public Health
Lisa Pringle, DDES/Land Use Services Division
Steve Townsend, DDES/Land Use Services Division
Larry West, DDES/Land Use Services Division
Bruce Whittaker, DDES/Land Use Services Division

NOTICE OF RIGHT TO APPEAL
AND ADDITIONAL ACTION REQUIRED

In order to appeal the recommendation of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) on or before April 19, 1996. If a notice of appeal is filed, the original and 6 copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council on or before April 26, 1996. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the Clerk of the Council shall place a proposed ordinance which implements the Examiner's recommended action on the agenda of the next available Council meeting. At that meeting, the Council may adopt the Examiner's recommendation, may defer action, may refer the matter to a Council committee, or may remand to the Examiner for further hearing or further consideration.

Action of the Council Final. The action of the Council approving or adopting a recommendation of the Examiner shall be final and conclusive unless a proceeding for review pursuant to the Land Use Petition Act is commenced by filing a land use petition in the Superior Court for King County and serving all necessary parties within twenty-one (21) days of the date on which the Council passes an ordinance acting on this matter.

MINUTES OF THE MARCH 26, 1996 PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L94P0010 - LONGSPUR:

James N. O'Connor was the Hearing Examiner in this matter. Participating in the hearing were Lanny Henoch, Bruce Whittaker, Jeff Potter, Randy Nicholls, John Ryan, Renee Rehfeldt, and William Richard Vandermere.

The following exhibits were offered and entered into the record:

Entered March 26, 1996:

Exhibit No. 1	Department of Development and Environmental Services File No. L94P0010 - Longspur
Exhibit No. 2	Department of Development and Environmental Services Preliminary Report to the King County Hearing Examiner for the March 26, 1996 public hearing
Exhibit No. 3	Application, received September 21, 1994
Exhibit No. 4	Environmental checklist, received September 25, 1995
Exhibit No. 5	Determination of Non-Significance, issued February 13, 1996
Exhibit No. 6	Affidavit of Posting, received March 6, 1996

Exhibit No. 7	Revised plat map, received February 20, 1996. Includes two sheets: preliminary plat map and preliminary drainage control plan
Exhibit No. 9	King County Assessor Map - NE 34-22-4
Exhibit No. 10a	Wetland Evaluation, Terra Associates, dated September 16, 1994
Exhibit No. 10b	Wetland Evaluation Addendum, Terra Associates, dated August 31, 1995
Exhibit No. 11	Geotechnical Consultation, Terra Associates, dated September 14, 1995
Exhibit No. 12	Surface Water Design Manual Variance Request (L95V0120) with cover letter dated September 22, 1995 and letter of approval dated October 9, 1995
Exhibit No. 13	Applicant's proposed revisions to DDES recommended conditions
Exhibit No. 14	Sketch of lot boundaries pursuant to encroachment issue
Exhibit No. 15	DDES Staff revised recommended conditions

Entered April 3, 1996:

Exhibit No. 8	Land use map - Kroll maps 367E, 367W, 375E and 375W, with school locations highlighted in yellow
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